

**Ravalli County Planning Board
Meeting Minutes for June 21, 2006
3:00 p.m.**

Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana

Public Hearing

Roaring Lion Estates (Anderson) Minor Subdivision and Subdivision for Lease or Rent and Three
Variance Requests

Plat Evaluation

Gunshy Ridge III (Bitterroot Valley Development, LLC) Major Subdivision and One Variance
Request

*This is a summary of the meeting, not a verbatim transcript. A CD of the meeting
may be purchased from the Planning Department for \$5.00.*

1. Call to order

Dan called the meeting to order at 3:09 p.m.

2. Roll Call (See Attachment A, Roll Call Sheet)

(A) Members

Dale Brown (present)
Ben Hillicoss (absent – excused)
Dan Huls (present)
JR Iman (present)
Roger Linhart (absent – excused)
Chip Pigman (absent – excused)
Les Rutledge (present)
Lori Schallenberger (present)
Gary Zebrowski (present)

(B) Staff

Benjamin Howell
John Lavey
Renee Van Hoven
Jennifer De Groot

3. Approval of Minutes

Dan asked if there were any corrections or additions to the minutes from June 7, 2006. There were none. The minutes were approved.

4. Amendments to the Agenda

There were none.

5. **Correspondence**

There was none.

6. **Disclosure of Possible/Perceived Conflicts**

There were none.

7. **Public Hearing**

(A) **Roaring Lion Estates (Anderson) Minor Subdivision and Subdivision for Lease or Rent and Three Variance Requests**

- (i) Staff Report on the Subdivision Proposal: **Ben Howell** gave a PowerPoint presentation. He gave an overview of the proposal and stated Staff recommended approval of all three variances and approval of the subdivision subject to 14 conditions in the Staff Report. He entered the Staff Report into the record. (See Attachment B, Roaring Lion Estates Staff Report)

- (ii) Three Minute Rule Waivers

There were none.

- (iii) Public Comment on the Subdivision

- (a) Persons in Favor

John Horat of Bitterroot Engineering & Design said that he had been working on the subdivision for about a year and that the parcel had gone through two years of groundwater monitoring to meet DEQ standards. He said that one septic will be shallow-cap and two of them will be elevated sand mound. He noted that he preferred to keep his projects free from variances, but said the area is in the Wildland Fire Hazard Interface. He said he met with the Hamilton Rural Fire District to discuss water supply and they said that they would go through 2,500 gallons of water quickly if there was a fire. He noted that the property owners would have to thin trees around their homes to make a defensible space. He said that Hamilton Rural Fire District said they were fine with one access into the subdivision as long as it meets County standards. He noted that in earlier stages of the subdivision, he met with Jessica, who is no longer with the County, and she said that if there is a County-maintained road, she assumed it was under the County jurisdiction. He said that whether or not the County or Forest Service owns Roaring Lion Road, the developer applied for a variance so that the subdivision could move forward. He introduced Justin Merckel from NorthWestern Energy to speak about issues relating to NorthWestern Energy Infrastructure, such as power lines and gas lines. He noted that Justin is neither for nor against the proposed subdivision.

Justin Merckel, Hamilton Operations Supervisor for NorthWestern Energy, said that he would answer any questions the Board has about power and gas. He noted that all power lines meet NESC (National Electric Safety Code) requirements. He said that the higher voltage lines require greater right-of-ways. He also noted that in order to get trucks or heavy equipment to the site,

adequate roads or trails are needed. He said that in most rural subdivisions, there is enough easement space, but in some of the proposed subdivisions with smaller lot sizes, it would be nice to have utility easements on the perimeter of the lots so they can access facilities.

Renee asked Justin if he would write down his concerns and submit them to the Planning Department.

(b) Persons Opposed

William Brooks, a neighbor to the South of the proposed subdivision, read a letter he and his wife composed. (See Attachment C, Letter from Alla Brooks) He said that he has lived on that parcel for 24 years and although he is not against the development, he has issues with potential impacts to public health and safety. He recommended either granting the variance to provide one access or to provide water, but not both. He asked how many wells and septic systems were going to be put in and the definition of a guest house. He said that recently a teenage neighbor shot his rifle along his property line toward a residence and was argumentative when asked to stop. He noted that when the area is more densely populated, neighbors will have to balance rights and responsibilities. He also asked that heavy machinery not be used at night. He said the third variance to allow a subdivision to access off a Forest Service road seemed reasonable. He said he hired a soil analyst and found out where a gravel bar was. He said that the developer should look at the entire ecosystem and realize that wells and septic systems can have huge impacts on that type of ground.

(c) Rebuttal

There was none.

(d) Close: Public Comment

(iv) Board Deliberation on Variance Request #1 (Wildland Fire Hazard-Access)

(a) Board discussion and questions

Les said that the best experts to make a decision about the variance have already spoken. He said that the Hamilton Rural Fire District said there is no hazard by having only one access to the subdivision.

JR asked if the Board had a letter on file from Hamilton Rural Fire District. He agreed with Les that the Board relies on the Fire District to make decisions. He moved to accept Staff's recommendation and approve Variance Request #1 as proposed.

Les seconded the proposal.

Gary asked if there were conditions on the variance.

Ben Howell said the only condition was that future homeowners would receive a notification of Wildland Fire Hazard.

Renee said that there is a requirement for the developer to do vegetation reduction on the access road, which would be Roaring Lion. She said that the Board could add that condition to mitigate the granting of Variance Request #1.

Gary recommended modifying the motion to include Condition 14 of the Staff Report, which requires vegetation reduction to lower the fire hazard rating to low.

JR accepted Gary's suggestion in his motion.

John Horat said that the access road has vegetation and that perhaps the Road Department could add a cost in pro-rata to take care of the vegetation on Roaring Lion Road's right-of-way. He said it is a hornet's nest to have private developers clear shrubs on a County right-of-way.

Renee read from the County Subdivision Regulations that vegetation reduction must occur on access roads that pass through high fire hazard areas. She noted that the developer would need to hire a forester to determine if that area is a high fire hazard and if it is, the developer would have to reduce that vegetation. She said that the developer would need to ask for a variance for relief from reducing vegetation.

JR asked which road they were talking about: Roaring Lion Road to Highway 93 or the internal subdivision road.

John Horat said he has no problem clearing vegetation on the internal subdivision road, but said Renee is suggesting the developer has to clear the trees on Roaring Lion Road to Highway 93.

Dale asked if Roaring Lion Road meets County standards.

John Horat gave the width of the road and noted it had been chip sealed. He said there were small trees in the easement, but said that it does not matter if the subdivision is in the low, medium, or high category of the Wildland Fire Hazard. He said that a forester will have to evaluate the easement from the proposed subdivision back to Highway 93.

Dale said that the County normally clears brush.

Dan said he had not heard of a private developer having to thin a County-maintained right-of-way.

John Horat said that he worked on a previous subdivision off Wyant Lane that was also in a Wildland Rural Interface and said that the issue of clearing trees off a County road did not come up. He said that now the County is applying the provision to all access roads, public and private. He said that the developer does have to pay pro-rata on Roaring Lion and said he would support an additional payment to the County for shrub maintenance.

JR said he thought that was part of the determination and assumed they had been talking about internal subdivision roads.

Dan said that was how he had historically interpreted it as well.

Renee said that it was true that the issue did not come up for the subdivision on Wyant Lane, but it should have. She said that it is required for Roaring Lion Road. She said she does not know if Roaring Lion Road meets the vegetation reduction figure shown in the Subdivision Regulations or not.

William Brooks said that he and his neighbors have been using professional loggers to clear their properties for 24 years and said he expects the new homeowners to continue that trend. He said that the Board should look at the entire property and noted that fires do not stop at roads.

Gary asked if the motion excludes Roaring Lion Road. He said that if the developer pays pro-rata, then the County should help maintain the shrub on the road.

Ben Howell noted that the variance under discussion is only to allow the developer to have one access. He noted that vegetation reduction is a requirement and the developer has not requested a variance from that provision.

(b) Board action

(1) Review of Variance Request #1 against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and findings with the Staff Report.

(2) Board Decision

The vote was called; the members voted (6-0) to approve the Variance. (See Attachment D, Roaring Lion Estates Variance #1 Vote Sheet)

(v) Board Deliberation on Variance Request #2 (Wildland Fire Hazard-Water Supply)

(a) Board discussion and questions

Les recommended approval of the variance with the condition that the fire hazard rating is changed from moderate to low. He said that the Hamilton Rural Fire District found the proposal acceptable. He asked if the area had been thinned at all.

John Horat said that the area had been thinned some, but the forester that did the initial rating on the property will have to give them instructions on how to reduce the fire rating.

Les asked if they had considered the dead material on the willow trees.

John Horat said that dead woody items and shrubs will be removed and the area will look like a park.

Lori motioned to approve the variance with Condition #14 added because the Hamilton Rural Fire District recommended approval.

Gary seconded the motion.

Dale asked if any other subdivision had to put in an underground water supply.

Lori mentioned that Chip Pigman did for the Wildflower subdivision.

(b) Board action

(1) Review of Variance Request #2 against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and findings with the Staff Report.

(2) Board Decision

The vote was called; the members voted (6-0) to approve the Variance. (See Attachment E, Roaring Lion Estates Variance #2 Vote Sheet)

(vi) Board Deliberation on Variance Request #3 (Lot Access)

(a) Board discussion and questions

Gary asked Ben about the Forest Service and County agreement he found.

Ben Howell said that there are agreements on Roaring Lion Road back to 1965, but there was an agreement filed in 2000 which said that the Forest Service would pay the County to improve the road and the County would take over jurisdiction of Roaring Lion Road.

Dan asked if the variance was necessary at this point.

Renee said that the Forest Service is arguing that the County has not completed the last step to take over the road.

Dan said that a variance would tidy up the subdivision.

Lori motioned to approve the variance based on findings of fact and conclusions in the Staff Report.

Gary seconded the motion.

Lori said that she hopes the County will do what it takes to obtain jurisdiction of Roaring Lion Road.

(b) Board action

(1) Review of Variance Request #3 against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and findings with the Staff Report.

(2) Board Decision

The vote was called; the members voted (6-0) to approve the Variance. (See Attachment F, Roaring Lion Estates Variance #3 Vote Sheet)

(vii) Board Deliberation on the Subdivision Proposal

(a) Board discussion and questions

Les asked about the water table on the lot. He asked John about the discrepancy between his findings and a comment from a neighbor that the water level was at 3 ½ feet. He asked when the tests were done and what the runoff was the previous spring.

John said that they had completed 2 years of water monitoring and that one pipe that had passed the first year failed the second year, although the results were within inches of each other. He said that he did not know if the parcel had a gravel bar or not.

Gary asked if the developer had monitored water this spring with the large runoff.

John said that he had not since it had been monitored in the previous two years. He noted that the proposed septic systems to the east are elevated sand mounds and are engineered. He noted that the one to the west is a shallow cap system.

Lori asked if there were copies of the proposed covenants. She said the developer could address a requirement for no shooting and said that the neighbors might feel more comfortable with the subdivision if there covenants added. She motioned approval of the subdivision subject to the conditions in the Staff Report, with the addition of Condition 14 and Public Health and Safety Finding 9 from the Staff Report Memo.

Gary seconded the motion.

Lori recommended a school donation of \$250 per lot on closing.

John said that each lot can be sold, except one lot which wants to be able to build a guest house without going through subdivision review again. He said that when the lot transfers at closing, amounts will be paid to the school district.

Ben Howell asked if Lori wanted to add a new condition for covenants.

Lori added a condition to the motion that the applicant create covenants. She said her main concern was that rifle safety was addressed.

(b) Board action

(1) Review of Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and findings with the Staff Report.

(2) Board Decision

The vote was called; the members voted (5-1) to approve the Subdivision. (See Attachment G, Roaring Lion Estates Subdivision Vote Sheet)

8. **Close Public Hearing**

9. **Plat Evaluation**

(A) **Gunshy Ridge III (Bitterroot Valley Development) Major Subdivision and One Variance Request**

(i) Presentation by Charles Conklin, Gordon Sorenson Engineering

Charles Conklin said that the proposed subdivision is for 10 two-acre lots on 22 acres. He said the primary access is off Jenne Lane and Eight Mile Creek Road. He said that road met County standards when they built it. He said they plan to pave the internal roads and that there will be no parking allowed on them. He said each lot will have an individual well and septic. He also noted a no-build zone which prohibits access from Jenne Lane to Lots 1 through 5.

(ii) Public Comment

There was none.

(iii) Board Discussion and Questions

JR asked if all the lots access the inner road.

Charles said that all but two of them do. He noted that they cannot access the larger road because the Health Department did not want them in that low area due to flood concerns. He said all the grades are 7% or less.

Dan asked if water monitoring was required.

Charles said it was not.

Lori asked the reasons that the developer asked for the variance.

Charles said that they have basic approval from DEQ and are just waiting on comments and approval from the Planning Board. He asked why they should have to do more work if DEQ has basically approved their application already.

Dan asked the condition of the County road that accesses the subdivision.

Charles said that they will have to pay pro-rata on about 2 miles of Eight Mile Creek Road. He said that for Gunshy Ridge I, they paid \$55,000 for 19 lots, so for 10 lots, pro-rata will probably be \$28,000.

Dan asked if there had been any improvements to the road.

Charles said there had not been.

Dale noted that Eight Mile Creek Road had multiple potholes, but that the Road Department filled most of them in.

Renee said that there is talk of starting an SID on Eight Mile Creek Road because of all the development on it.

Lori said that with \$55,000 the County could start improvements.

Charles reminded the Board about the grader districts and recommended that the money for roads be put in an escrow account and used for that specific road.

Dan said that the Board agrees, but cannot do anything about it.

Gary asked if Gordon Sorensen Engineering had received a letter in response to a letter Gordon sent about the DEQ circular 8 requirement.

John Lavey noted that the letter will be included in the full staff report. He said that there is a letter where WGM Group suggests that the developer request a variance.

Charles said that he went off that recommendation and Staff said he could apply for the variance.

Les said that although the application mentioned that law enforcement would have local deputies available, the closest deputies are in Stevensville and the response time from Hamilton is an hour. He said that in the application, the developer said that since the proposed housing units are "high-level," the probability of needing law enforcement would be reduced. He noted that domestic violence occurs throughout all spectrums. He said that all the lots mention having wheat stubble on them from a harvest the previous year. He asked if there was any irrigation on the land.

Charles said there was not any irrigation and that production was marginal.

Les asked to have a statement about the marginality and low production from someone who had farmed the land or leased out the land for farming.

Charles said that Mikesell could probably provide that and noted that the land was leased out the previous year for farming.

Les said that he could understand taking the land out of farming because of low productivity, but he noted that it could still be used as open space.

Charles said that although there are some 20 and 50-acre lots in the area, some adjoining lots are 2-acre parcels. He also noted that the area used to be a ranch.

10. **Communications from Staff**

Renee said that the County Commissioners have appointed Bob Cron from the Park Board to the Planning Board. She noted that he will not be voting, but will be discussing issues with the Board.

In response to a question which asked if Bob was appointed by the Commissioners or the Park Board, **Ben Howell** said that the Park Board decides the member appointed to the Planning Board and the length of the term, but guessed that the terms will be six months to a year. He said that Bob will be at the July 5 meeting.

11. **Communications from Public**

There were none.

12. **Communications from Board**

Dale said that during the last meeting, a developer proposed \$150 per lot to give to the schools. He noted that amount will not buy books for one student.

Dan said that the government and school districts cannot charge impact fees, but can negotiate a voluntary contribution. He said the schools take what they can get because the developer does not have to give anything.

Gary noted that eventually the property taxes from new homes help to pay for schools.

JR said that schools are paid money from the state based on how many students are enrolled.

Lori said that personal volunteer time at the schools is more helpful in her opinion, but average donations have been \$150 - \$500 per lot.

Dan said that the Right to Farm and Ranch Board will have a meeting on June 28, 2006, at 9:00 AM with the Commissioners to try to place an open lands bond issue on the November ballot and to present an agricultural study report.

Lori motioned to support the bond issue.

Gary seconded the motion.

The Board voted unanimously to support the open lands bond issue that the Right to Farm and Ranch Board is proposing to the Commissioners.

Gary said that the Land Use Committee is still collecting data, but they are hoping to meet next week and pick up the pace. He said that he went to a Board of Realtors meeting about zoning and taxation and noted that there is a lot of public interest in the topic.

13. **New Business**

There was none.

14. Old Business

There was none.

15. Special Meeting: June 28, 2006 at 7:00 p.m.

- (A) Gunshy Ridge III (Bitterroot Valley Development, LLC) Major Subdivision and One Variance Request – Public Hearing
- (B) Centennial Lot 17, AP (K&J Development) Major Subdivision and One Variance Request – Plat Evaluation
- (C) East End, Lot 1, AP (Kwapy) Major Subdivision – Plat Evaluation

16. Next Regularly Scheduled Meeting: July 5, 2006 at 7:00 p.m.

- (A) Aspen Springs (Wesmont) Major Subdivision and Eight Variance Requests – Public Hearing

17. Adjournment

Dan adjourned the meeting at 4:18 p.m.